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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 33rd MEETING
(FIRST PART*)

Held at the Palais des Nations, Geneva,
on Wednesday, 26 August 1992, at 3 p.m.

Chairman: Mr. ALFONSO MARTINEZ
later: Mrs. KSENTINI

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* The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1992/SR.33/Add.1.

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The meeting was called to order at 3.15 p.m.

THE RIGHT OF EVERYONE TO LEAVE ANY COUNTRY, INCLUDING HIS OWN, AND TO RETURN TO HIS COUNTRY (agenda item 19) (continued)

1. Mr. CISSE (Centre for Human Rights), speaking on a point of clarification, said that at the 31st meeting of the Sub-Commission reference had been made by Mr. Despouy to a decision to include a sub-item on refugees under item 19 on the right of everyone to leave any country, including his own, and to return to his country.

2. The Secretariat wished to clarify that the record of the previous session confirmed that there had been no decision to that effect. The only decision adopted by the Sub-Commission had been decision 1991/114 adopted on 29 August 1991.

3. In that decision the Sub-Commission had only decided to transmit to the Commission the report of the 1991 session of the Working Group on the right to leave, inviting the Commission to provide comments and guidance on the issues mentioned in the report (E/CN.4/1992/437).

4. The Sub-Commission might wish to note that no action was taken by the Commission at its forty-eighth session in that regard.

PROTECTION OF MINORITIES (agenda item 18) (continued) (E/CN.4/Sub.2/1992/37 and Add.1 and 2, E/CN.4/1992/48 and Corr.1-2; E/CN.4/Sub.2/1991/43; E/CN.4/Sub.2/1992/NGO/17)

5. Ms. CHAPELIER (International Association of Educators for World Peace) invited the attention of the Sub-Commission to what appeared to be a system of ethnic quotas in Rwanda. The population of that country had been estimated at over 7 million, comprising three ethnic groups in the following proportions: the Hutu, representing 84 per cent of the population; the Tutsi, with 15 per cent; and the Twa with 1 per cent. Those figures however related to the colonial period and did not correspond to ethnic reality.

6. The heart of the Rwanda problem was that, for more than 30 years, successive Governments had operated an ethnic quota system in the different areas of national life. The system was applied in particular to education, the public service, the army and national defence which were reserved exclusively for the Hutu ethnic majority. The ethnic quota system as applied in Rwanda had been designed to protect minorities. Paradoxically, however, the system had led to unprecedented violations of human rights in all fields. According to the local and international press, the strict application of the system had encouraged a number of individuals belonging to minority ethnic groups to bribe officials in order to change their ethnic identity as indicated in their official documents.

7. The quota system also extended to regions of origin thus permitting the authorities to exclude persons not only for ethnic reasons but also on a regional basis. Scores of Hutu dignitaries of the First Republic (1962-1973) had been physically eliminated subsequent to the seizure of power by the current President. Those dignitaries had come from a region other than that

of the President. The current Minister of primary and secondary education had been beaten and humiliated at home by a commando unit in front of her husband and children.

8. The Government of Rwanda had also violated the most fundamental human right of all, namely the right to life. It had been guilty of the massacre of 1,000 Bagogwe cattle breeders in January 1991 and of 500 Tutsi from Bugesera on 4 March 1992. Those massacres had been the result of President Habyarimana's determination to eliminate his political opponents and certain minority groups. Other massacres, involving 500 victims, had taken place in the region of Mutara and in Byumba prison in October 1990. During the same month a further 1,000 to 1,500 victims had been massacred in the north-east of the country. In March 1992, militia recruited and trained by the National Revolutionary Movement for Development had carried out another massacre in the region of Bugesera.

9. Belgian non-governmental organizations had reported that leading politicians and the security forces had played a key role in those massacres which were the result of a political strategy designed to thwart the process of democratization, which was seen by the group in power as a threat to their privileges. Similar reports had been received from Rwandese opposition parties who had categorically condemned the Government for its part in the Bugesera massacres and had named Mr. F. Nahimana, Director of the Office of Information, Mr. Sekagina, Sub-Prefect of Kanazi, and Mr. Rwambuka, burgomaster of the commune of Kanzenze as those being mainly responsible. The Sub-Commission should take those human rights violations into account and consider making an investigation of the facts.

10. Ms. MEINDERSMA (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) said that, while there had been a considerable improvement in the human rights situation in many parts of the world including particularly in eastern European countries, Turkey continued to commit violations of the human rights of its citizens and to pursue policies of assimilation and genocide of the Kurdish population. Another ethnic group which had been the target of the Turkish Government had been the Greek minority whose number had dwindled to 2,500 as compared with 275,000 only 60 years earlier. The problems experienced by the Greek minority currently included harassment by police; restrictions on freedom of expression; discrimination in education; restrictions on religious freedom and on the right to control their charitable institutions; and the denial of ethnic identity. The clergy and Laity Congress of the Greek Orthodox Church of North and South America, in July 1992, had strongly condemned the Turkish Government for continuing to restrict the freedom of the Ecumenical Patriarchate in performing its religious mission.

11. Turkey had also occupied almost 40 per cent of Cyprus since 1974 and had denied accountability for the 1,619 persons reported missing since the Turkish invasion 18 years earlier.

12. The situation of the Greek minority in Albania had not improved despite the promises of the new Albanian Government. The latest violations noted by her organization included: a resolution by the Albanian Parliament to

withhold recognition from Archbishop Anastasios because he was not an Albanian citizen and the refusal to permit the three Metropolitans appointed by the Patriarchate to assume their assignment for the same reason; in addition, the OMONOLA Party of the Greek minority had not been allowed to participate in the last elections on 22 March for reasons of ethnic affiliation.

13. Her organization was of the view that compensation should be paid to persons persecuted by the previous Albanian regime; that the land and property confiscated by the totalitarian regime should be returned; that all houses of worship destroyed or altered by the previous regime should be rebuilt and repaired; and that all religious articles which had been transferred to various museums should be returned.

14. Her organization also believed that the Albanian secret police, formerly known as the Sigurimi but currently known as SHIK, should be abolished; investigation of crimes could be performed through the Office of the General Investigator. SHIK was not accountable to publicly elected government officials or the public and answered only to the President. The Albanian people did not trust SHIK to serve as a crime prevention agency; its current and former officers should be investigated for serious past human rights violations including torture, ill-treatment, arbitrary arrest and detention and arbitrary and summary executions. In addition, SHIK agents should not be allowed to possess guns. Nor should control over the old Sigurimi files be left to SHIK which would be likely to keep secret or destroy them so as to prevent inquiry into past human rights violations. Those files should be placed under secure and impartial control until a constitutional Government determined their fate.

15. Her organization agreed with the concerns voiced by non-governmental organizations such as Human Rights Advocates and Pax Christi regarding Mr. Eide's study (E/CN.4/Sub.2/1992/37). It believed that self-development in general was not equivalent to secession and was not necessarily a dangerous concept. Currently new and creative interpretations of the right to self-determination could be explored and developed with a view to acknowledging already existing ethnic and cultural diversities. In that manner, timely recognition of a people's right to self-determination could further peaceful coexistence and prevent conflicts from emerging.

16. Similarly, recognition must be given to problems which had created minority situations. Addressing minority rights and problems without paying due attention to how such a minority had come into existence in a particular country would prevent appropriate solutions from being found and adequate implementation of the right to self-determination.

17. Mr. FORSTER (International Work Group for Indigenous Affairs) said that, beginning on 23 April 1992, the Government of Myanmar had announced: a change of leaders, the release of dozens of political prisoners, the right of family members to see Daw Aung San Suu Kyi for the first time since her imprisonment and had promised to hold a political convention in the near future to begin the process of writing a new constitution. It had also announced the suspension of the offensive against the Karen minority and an agreement with Bangladesh to permit the return of 250,000 refugees of the Muslim minority.

18. Some members of the international community had attached weight to those announcements, forgetting the Myanmar regime's consistent record of broken promises and dishonoured agreements. If the Myanmar Government was really sincere about solving the problems in Myanmar it would: announce a nationwide cessation of all military operations against the ethnic minorities; rescind all the arbitrary decrees which had suppressed all the basic political and human rights of the people; release all political prisoners, including Daw Aung San Suu Kyi, unconditionally; honour the 1990 election results and transfer all State power to the people's elected representatives; allow a true national convention to be convened by a democratically-elected civilian government, with unconditional participation by all ethnic peoples; and allow all refugees beyond the borders of Myanmar and all those displaced or relocated within the country, to return to their homes and land without fear of arrest or punishment of any kind and permit their homecoming to be monitored at first hand by international agencies.

19. The Myanmar Government seemed unlikely to do any of those things. In September 1991 it had indicated that the military might retain power for 5 to 10 more years. In an interview with the BBC on 11 June 1992, the Government's First Secretary and Intelligence Chief, Major-General Khin Nyunt, had said that the recent concessions did not reflect a basic change in any government policies. He had also stated that Daw Aung San Suu Kyi, the Nobel Peace Prize laureate and leader of the National League for Democracy, already held under house arrest for three years, was still too dangerous to be left unrestricted. Thousands still remained in political prisons and the Government had publicly stated that they would release no one who posed any "danger to the State".

20. The Myanmar Government's planned "National Convention" appeared to be another attempt to appease world opinion while the military junta consolidated its hold on power. The Steering Committee for the National Convention consisted entirely of officials who had been assigned the power to dictate the agenda of all future meetings. Only delegates approved by the junta could attend the Convention and the list of parties invited was notable for its omission of any member of the Democratic Alliance of Burma (DAB) or the National Coalition Government of the Union of Burma (NCGUB). No person or party currently active in opposing the junta politically or otherwise had been invited. On 10 July 1992, Major-General Myo Nyunt, Chairman of the Steering Committee, had stated that ethnic peoples demanding the establishment of a genuine democratic federal union of States must surrender unconditionally before they could participate, thus barring them from any input to discussions on a new constitution.

21. Currently the struggle of Myanmar's people for freedom and democracy faced its most serious threat. To restrict the Government's imminent massive offensive and to prevent even further government-instituted genocide and suffering, it was imperative that all forms of international pressure against the Myanmar Government should be stepped up. All United Nations and other foreign aid must be halted and consideration must be given to the imposition of international arms and trade embargoes. Furthermore, the right of the junta to represent Myanmar at the United Nations should be reviewed in the light of its persistent refusal to hand over power to the Government elected by the people.

22. Ms. OZDEN (Centre Europe-Tiers Monde) said that the Kurdish people comprised substantial minorities in Turkey, Iraq, Iran, Syria and in several Republics of the former Soviet Union. The right to a State of their own had never however been recognized, largely because of the policies of the victors of the First World War; that influence continued to dominate. The reason was clearly that the region inhabited by the Kurds was rich in water and oil resources and, in addition, control over the area was disputed by several Middle Eastern countries.

23. In Syria the Kurds were totally ignored; they had no status and no documents. In Iran they were subjected to forced assimilation notwithstanding the fact that, under the law, the courts must recognize the customs of minorities in order to protect their traditions. Iraq was the only country which had colonized Kurdish territory and the autonomy of Kurdistan had, in theory, been recognized in Act No. 33 promulgated on 11 March 1974. Nevertheless, repeated massacres of the Kurds had taken place, including the chemical bombing of the village of Halabja on 16 March 1988, which had resulted in 5,000 deaths and 10,000 cases of severe burning, and a massacre of the civilian population by the Iraqi military following the Gulf War when the Kurdish people had been encouraged by the allies to rise against Saddam Hussein. It was true that, in Iraq, the use and teaching of the Kurdish language was permitted as were Kurdish customs but that was of little consequence when set against the flouting of the economic and social rights of the Kurds.

24. In Turkey the existence of the Kurds had been completely denied until 25 January 1991 when the Government had allegedly admitted the use of the Kurdish language. The Turkish Government was, however, in reality pursuing a policy of cultural homogenization through an educational system designed to meld minorities into a uniform Turkish culture. Since 1987 a state of emergency had ruled in the 13 Kurdish provinces where the Government had also suspended the European Convention on Human Rights. The policy of the Turkish Government was clearly designed to exterminate the Kurds.

25. Since 1984 the inhabitants of more than 2,500 Kurdish villages under Turkish domination had been deported and more than 1 million Kurds had been forced to leave their homes and abandon their belongings. Those villagers who had not been deported had been prevented from pasturing their livestock so that their means of subsistence had been cut off. Fields had been mined causing the deaths of shepherds and farmers as at Cukurca in April and in Nusaybin in May 1992. On 17 May 1992 an army helicopter had fired on a group of farmers who were pasturing their livestock in the district of Uludere causing the death of a farmer and of about 100 animals.

26. Kurdish songs and dances were prohibited. On 14 March 1992 the police had arrested approximately 100 wedding guests in Diyarbakir; the guests had included a well-known Kurdish singer and members of Kurdish musical and theatrical groups. Many of those arrested had been brutally beaten.

27. Schools for the minorities were confined to Istanbul so that the Assyrians who inhabited the Kurdish provinces did not have access to a school of their own; their language and religious traditions were not authorized.

The Assyrians, like the Kurds, had been deprived of their economic, social and cultural rights and almost 300,000 Assyrians were reported to have left the region of Mardin.

28. The Turkish Government was also implementing a policy designed to set the Kurds against each other and the bond of solidarity that had prevailed between Kurds of Turkey and Kurds of Iraq had been broken by order of the Turkish Government.

29. Despite oppression and forcible assimilation, however, the Kurds constituted a people. Effective respect for human rights implied respect for the rights of peoples as enshrined in article 1 of both International Covenants. Her organization therefore requested the Sub-Commission to take action to ensure that the Kurdish question was investigated by the appropriate United Nations bodies.

30. Mr. van WALT (Pax Christi International) said that he wished to alert the Sub-Commission to the shocking ultimatum issued by the Georgian authorities to Abkhazia on the previous day. It had only just run out at 1 p.m., and a massive offensive had been started against the people of Abkhazia. There were reports of artillery and even of chemical weapons being used. It was precisely the ethno-nationalistic drive of the Georgian authorities that was threatening all the inhabitants of Abkhazia. The Abkhazians themselves were not ethno-nationalistic, since they were striving for self-determination not only for their ethnic group but for the entire multi-ethnic region. On behalf of the people of Abkhazia, which included many Armenians, Russians, Greeks and Georgians, he appealed to the Sub-Commission to voice its concern to the Georgian authorities and to call for a dialogue to resolve what was essentially a political issue.

31. Turning to Mr. Eide's study (E/CN.4/Sub.2/1992/37), which analysed nationalism in its various expressions, he noted that many of the peoples and minorities currently expressing their long-denied feelings of national identity had for years been the victims of oppressive forms of nationalism. Such terms as "internationalism", "socialism" or "anti-colonialism" had often disguised imperialistic forms of nationalism. Russian nationalism had dominated the Soviet empire, with other nationalities having to conform to varying degrees and to assimilate Russian culture, ideology and language. China imposed its will on non-Chinese peoples that it had conquered, although in name it recognized their distinctiveness and autonomy. Notions of Chinese superiority permeated policies towards and treatment of Tibetans, Mongols and Uygurs.

32. The report emphasized that it was often the provocative attitude of minorities, such as advancing a claim for self-determination, that was to blame for conflicts and human rights violations. For Mr. Eide, those "peoples" who had the right to self-determination were very limited in number: those who lived in territories colonized by European Powers (for example New Caledonia); peoples whose territories had been annexed after 1945 against their will (for example Tibet); and component parts of voluntary federations (for example the Czech and Slovak Federation). That restrictive view of self-determination might flow from equating it with secession, as the

report seemed to do in certain places. Self-determination was a right of all peoples. Nowhere was there a presumption in the relevant international instruments against the right to self-determination of peoples. Recognizing that, however, did not mean that all peoples should have their own independent States. The outcome of the exercise of the right to self-determination could be independence, but also integration or a whole range of forms of association or autonomy. The right to self-determination must be weighed against competing legal rights and principles, such as that of States to territorial integrity or sovereignty. No right was absolute.

33. Although it might sometimes be the case that self-determination caused conflicts and human rights violations, more often human rights violations caused conflicts and drove people to demand the right to self-determination. It would be like saying that the assertion of the right to free speech in China or Myanmar caused human rights violations rather than the violation of that right by the Governments. By the same reasoning, the atrocities committed in Tibet, East Turkestan, Abkhazia, West Papua or East Timor should not be considered to be the primary causes of conflict and human rights violations.

34. Some peoples, for example the Albanians of Kosovo, the Abkhazians, the Kurds or the Tartars, sought a guarantee to protect themselves from the kinds of massive deportations, killings and destruction of which they had been the victims in the past at the hands of those who claimed sovereign rights over them. Peoples who had experienced foreign oppression, discrimination and even genocidal policies believed that history had taught them that they could not survive under the rule of the State that had oppressed them. That judgement was no less valid than any "objective analysis". What was needed was a more flexible approach to the concepts of sovereignty, territorial integrity, autonomy, etc. Decentralization and power-sharing must also be given closer attention.

35. The study focused on the dangers of the forced movement of peoples or the denial of the rights of citizenship to population groups in newly independent countries. In his view, it should address the phenomenon that often lay at the core of that important issue: transfer of populations by a Government in violation of the human rights of the people being moved or of the people into whose territory they were being transferred. It was often those policies that had created the dangerous situations referred to in the report. Governments transferred large numbers of people to dilute a particular people so as to make it more easily governable, to exploit the natural resources belonging to others or to thwart claims to self-determination. The Chinese Government reasoned that once millions of Chinese had transferred to Tibet and made the Tibetans an insignificant minority in their own country, the political problem would be less acute. The Soviet Union had taken the same attitude with respect to the Baltic peoples. Stalin had moved Georgians into Abkhazia, creating the current tragedy. Indonesia sought to solve its problem by moving Javanese, with World Bank sponsorship, to East Timor, Acheh, West Papua and the Moluccas. Turkey had practised population transfer with regard to the Kurds and Iraq with the Assyrians and Turkomen. Israel had transferred Jewish settlers to the occupied territories, and Morocco had moved people into the Western Sahara. He wondered why the international community condoned, and, in the case of Indonesia, even paid for the population transfer policies of States, but when a people finally freed itself of an occupying Power, the international

community rushed in to protect the citizenship rights of the people moved into those territories in violation of human rights. The international community must take a more even-handed approach. In January 1992, an international conference had been organized in Estonia on that subject. Participants had been shocked to learn that population transfer was threatening the survival of peoples throughout the world, from the indigenous peoples of the Chittagong Hill Tracts to the Tartars of the Crimea, the Bougainvillians of Bougainville and the Mongols of Inner Mongolia.

36. Mr. SUNDBERG (Liberal International) drew attention to the human rights problems of a special cultural minority group, citizens who lived abroad and established a family in a country other than their country of origin. Nowhere did the relevant international human rights instruments make it clear whether the country of origin or the host country must assume responsibility for that minority community. He was particularly distressed by the problem of children being born stateless. In cases where statelessness occurred for a child born in a country other than the country of origin of a parent, which country was responsible for fulfilling the guarantee that at birth every child had the right to a name and a nationality? He urged the Sub-Commission to ask the Commission on Human Rights to acknowledge that there was such a lacuna in the United Nations human rights instruments and to place on its agenda an item that called for a clear definition of which Government was responsible for guaranteeing the human rights of parents and children who lived outside their country of origin.

37. In most countries of the world, the legal right to the acquisition of citizenship and nationality at birth had been based upon jus sanguinis, under which a birth automatically brought continuity of the citizenship of the parent to the child, even if the child was born outside the country of origin. The situation was different in the case of countries with a jus soli legal tradition, which was common in Anglo-Saxon countries, including the United Kingdom and the United States. Location at birth was the defining characteristic for transmission of citizenship to the child, usually irrespective of the citizenship or nationality of the parent at the time of birth. Countries with a jus soli tradition could and unfortunately did enact laws such that when their citizens had children away from their home country, the parents might be unable to transmit any citizenship to their children at birth, and they could find that their children were born stateless. It was not clear why any Government would want to create such a dilemma for its citizens abroad and to be responsible for the creation of "human rights orphans" in the community of its overseas citizens.

38. In one major country, for more than a century the human rights of parents had been protected by a law automatically granting citizenship at birth to any child born abroad, provided only that the father had a residence in the home country prior to the birth of the child. That right to transmit citizenship to a child born abroad had been changed by a new law establishing the requirement of many years of prior physical presence in the home country before citizens married to aliens could qualify to transmit citizenship to their children born abroad. With that initiative, the country concerned had actually taken away a basic family-building human right that its citizens had previously enjoyed for more than a century. On the same occasion, that country had decided that the human rights of citizens abroad would be neither

uniform nor equal, but would instead depend upon the particular subset of the overseas community to which its citizens might belong. For example, if a person from that country worked for its Government or for an international organization whose name had been inscribed on a special list, any time spent abroad by that person or by any member of that person's household counted as if that person were still living in the home country. Even while living abroad, such citizens could accumulate enough years of residence to transmit citizenship to their children born abroad and thus avoid their children becoming stateless. Citizens abroad working in the private sector, however, were denied that same right. The law implied that private citizens and their families abroad did not enjoy the same human rights because the breadwinner had chosen the wrong employer.

39. Another aspect was that the law of that country was much more indulgent in granting citizenship to a child born abroad to an unwed mother than to a child born to the same mother if she had married the alien father of the child before it was born. That suggested that families in which the parents were of mixed nationalities did not have the same human rights as single-parent families.

40. All persons deserved equal treatment before the law, especially with regard to those aspects of human rights that most directly affected the creation and maintenance of the family unit. That would only come about when Governments accepted that they must treat all their citizens equally and not subject certain citizens to discrimination because they had made the wrong choice of home, because of the wrong nationality of a spouse or because of the wrong employer. Anti-family laws, and especially those that led to stateless children, were a blemish on the human rights records of all countries that enacted and maintained such legislation.

41. Ms. MURCHIE (Indigenous World Association) said that her organization came to the Sub-Commission every year to seek fulfilment of the promise of self-determination. Indigenous peoples were humanity's most invisible group. Most were minorities in their own homelands. Their civil, political, economic, social, cultural and other rights were determined by nation-States that denied them their identity as the custodians of territories appropriated over the past five centuries. She drew attention in that context to the Kari-Ocha Declaration of Indigenous Peoples, made in May 1992 in Brazil at the World Conference on Indigenous Peoples on Territory, Environment and Development, which stated that indigenous peoples must be able to control their own affairs. Nation-States did not understand that creative investments in indigenous peoples was an investment in peace and in the ecosystem and would represent a giant stride towards attaining the realization of human rights.

42. Indigenous peoples were the losers in a technological age driven by a multinational market economy. It was their communities that were the victims of dams that flooded villages and destroyed traditional food sources, of logging activities that denuded tropical rainforests and of industries that polluted waterways and coastlines. In their own homelands, they were often hunted as intruders or relocated in the name of "progress" because they impeded "development".

43. She noted that the Sub-Commission had heard about the human rights violations of which the following indigenous peoples had been the victims: the people of the Narmada valley, India; the Mayan peoples and the Convigua widows of Guatemala; the aboriginal Australians; the Igorots in the Philippines; the Jumma of the Chittagong Hill Tracts, Bangladesh; and the island people of Bougainville. The indigenous peoples urged the Sub-Commission to present to its parent body recommendations that placed a strong moral obligation on all nation-States to ensure that the citizenship of indigenous persons was not limited in any way, to atone for past injustices, such as broken treaties and land laws, by fair compensation, and to promote policies that gave the indigenous peoples control of their own affairs. On the eve of the International Year for the World's Indigenous People, great hopes had been placed in the Commission on Human Rights.

44. Mrs. Ksentini took the Chair.

45. Mr. TIAN Jin, speaking on the second progress report by Mr. Eide (E/CN.4/Sub.2/1992/37), agreed on the four main points developed in the report and his oral introduction: that sovereignty and integrity were a foremost principle of international law; that the identity and legitimate rights of the minority nationality should be fully respected; that there was a limit to self-determination; and that countries should not interfere in the affairs of their neighbours just because there were the same or similar nationalities across the border, not to speak of countries that did not even have such a pretext to exploit.

46. He had recently come across some material indicating that there were about 1,000 nationalities in the world. That figure suggested that it would be unthinkable for every nationality to establish a separate State. Therefore, sentiments of nationalism should not be carried to extremes, for that was likely to have adverse consequences, such as could currently be seen in Europe.

47. The one or two major nationalities in a country should fully respect the identity and political, economic and social rights of the minorities. Those rights should be reflected in the constitution and related laws and regulations and protected by administrative measures. Two or three years previously, a European country had denied the identity of a minority, and even the names of members of that minority. That had had an adverse impact. As Mr. Eide rightly put it, minorities were not automatically good or majorities automatically bad: each case must be analysed objectively.

48. The term "self-determination" was open to various interpretations, and it was important not to go beyond the sense that had been generally accepted over the decades. In China, autonomy had been practised in different ways at different levels and in different areas. The identity and various rights of minorities were recognized and protected, based on the principle of mutual respect, mutual assistance, common development and common prosperity. In that way, the majority nationality, the Han, and the 55 minority nationalities had lived together in peace. Of course, measures of original autonomy must be further developed and ensured.

49. The tragic events currently unfolding in Europe and elsewhere showed how important it was to have an in-depth and objective study on that complex subject, and it was to be hoped that more time would be allotted to it at the next session of the Sub-Commission.

50. Mr. HLA (International Fellowship of Reconciliation) drew attention to the plight of the Muslims in Myanmar, which had become particularly critical for the Muslims in Rakhine (Arakan) State who were known as Rohingyas. The implementation of the military dictatorship's project to exterminate the Muslims in Arakan and the looting, raping and killing that had resulted had driven 300,000 Muslim refugees into Bangladesh. Thus, the flight of refugees had even surpassed that of 1978, when over 200,000 Muslims had sought refuge in Bangladesh for similar reasons. The repression of Muslims in Arakan was part of a gross and consistent pattern of human rights violations committed by the Government against all forms of political opposition and dissent as well as against such vulnerable segments of the population as ethnic minorities, who were suspected of not supporting the national ideology. All available evidence indicated that Muslims had been targeted for repression simply because they belonged to a particular religious minority, some of whose members sought greater autonomy from control by the central Government, as pointed out in the latest report of Amnesty International.

51. Since the military had come to power in 1962, freedom of religion and freedom of movement for Muslims had been restricted. In 1987, when dissatisfaction in the population had intensified, the junta had instigated anti-Muslim riots to divert the anger of the people, especially in Taunggyi, Prome and Mandalay. In 1988, the dictatorship had massacred several thousand people and later arrested Nobel Peace Prize winner Daw Aung San Suu Kyi and many politicians, earning worldwide condemnation. To divert the attention of the population and to counteract international pressure, the regime had held a general election in 1990, at which the party led by Daw Aung San Suu Kyi had won 80 per cent of the seats, but the regime stubbornly refused to transfer power to the elected representatives.

52. In 1991, with the intention of re-establishing unity among non-Muslims, the regime had begun inciting anti-Muslim riots and had initiated a systematic harassment of Muslims in Arakan. Muslims had been arrested, beaten, tortured and in some cases even killed. Their property had been looted, and Muslim women had been raped and conscripted into forced labour. Those abuses had been documented by a number of international human rights organizations and had even been witnessed by diplomats taken to the area by the Burmese authorities. Those repeated persecutions had caused the current critical situation on the border with Bangladesh. Many refugees continued to arrive, which indicated that abuses were continuing.

53. Although there had been an agreement on repatriation, the regime had refused to allow the United Nations to monitor the return of refugees. Any repatriation must be completely voluntary and must be overseen by the United Nations; otherwise, it would only condemn those refugees to further persecution. The regime had consistently broken such agreements.

54. He appealed to the Sub-Commission and to all Governments to help put an end to Myanmar's 44-year civil war, to take firm steps to end the despotic rule of the military regime by imposing economic and other sanctions, to help establish a genuine federal union where the oppressed minorities could enjoy equal rights and self-determination, to seek the release of Nobel laureate Daw Aung San Suu Kyi and of political prisoners and the restoration of democracy and to help ensure the return of Muslim refugees from Bangladesh, monitored by representatives of the United Nations so as to guarantee the safety and security of the refugees. He also called upon the Sub-Commission to appeal to the Organization of the Islamic Conference to take a firm stand not only in favour of the Muslims but also of the entire oppressed population. He urged the world community to support the efforts of the Democratic Alliance of Burma and the National Coalition Government to unseat the delegation of the military regime at the United Nations and to replace it with a delegation of the legitimate National Coalition Government.

55. Ms. LAYLA (International Peace Bureau) expressed concern at the situation in Afghanistan. Women were being pressured to wear the veil. Armed groups were interfering in the process of democratization and had killed more than 1,800 persons to date. The Sub-Commission must call for a conference in Kabul to work on a settlement.

56. Concerning Rwanda, negotiations between the Patriotic Front of Rwanda and the Government of Rwanda had agreed that: national unity should be based on the equality of all citizens before the law; national unity implied that the people of Rwanda were one and indivisible; the return of refugees would be a factor of peace, unity and national reconciliation; democracy was to be expressed by regular, free, transparent and fair elections. Popular representation must be an authentic reflection of the wishes of the people; the rights of the individual as laid down in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights would be guaranteed; a multiparty system implied the legitimacy of the existence of democratic opposition and that the aspirations of all Rwandese to have access to power by democratic means was legitimate. In order to promote a democratic system, the negotiators committed themselves to the economic, social and political development of the country, and they would set up a national commission on human rights as well as an international commission to inquire into human rights violations during the war.

57. Mr. CONDORI (Indian Council of South America) drew experts' attention to the military occupation of Indian territories in Bolivia and Peru on the pretext of combating drug trafficking. More than 150 soldiers of the United States Task Force 37 were currently stationed in Santa Ana de Yacuma and San Borja in the Province of Beni, and the Bolivian State had little control over their activities. Regardless of their mission, the presence of foreign troops in vulnerable regions of the country violated national sovereignty; added to which, the United States troops were harassing and even firing on the indigenous population. It was also reliably reported that the task force was establishing a military base for anti-drugs operations in Beni and constructing stores for toxic substances in the Amazon territories. The public had not been informed of the status or specific functions of those foreign troops.

58. The campaign to eradicate the coca plant, a plant rich in minerals and vitamins and with remarkable medicinal properties, and to replace it by other crops, constituted an attack on the culture, the ancestral traditions and the very existence of the indigenous populations. Coca was a sacred plant to the Quechua and Aymara Indians of Bolivia and Peru, venerated and used in their religious rites since time immemorial. The Indian way of life and the coca plant were inseparable. Yet the cocaine-consuming countries were requesting Bolivia to destroy between 5,000 and 8,000 hectares of coca plantations annually, in return for a payment of $66 million.

59. His organization considered it unrealistic and illogical to believe that eradication of the sacred coca plant would solve the drugs crisis and cure whole nations of sick people. More than ever, what was needed was determined measures to stamp out illicit trafficking in drugs. Production could not be suppressed so long as a demand for drugs continued to exist. The indigenous peoples vigorously condemned the white men who had come to Indian territories to transform the sacred plant into a drug, and they condemned the illegal traffic in cocaine, a substance physically and morally harmful to millions of human beings suffering from their abuse of the plants and riches that nature had bountifully bestowed upon mankind.

60. Mr. Alfonso Martínez resumed the chair.

61. Mr. PRIELAIDA (Observer for Lithuania) noted that in some countries racism was being replaced by ethnic cleansing and that in others the rights of minorities were beginning to prevail over those of the autochthonous populations, creating new tensions. Some States of the former Soviet Union were not exempt. The Baltic countries had existed for centuries, but a foreign occupation had temporarily upset their ethnic structure.

62. The observer for the Russian Federation had complained about the situation of the 2.5 million Russians residing in the Baltic States, who, he had claimed, had been arbitrarily placed in the situation of being foreigners whereas they had lived in those countries for a long time. However, it should be borne in mind that the three Baltic States had been incorporated into the Soviet Union by force in 1940. Millions of Lithuanians, Latvians and Estonians had been deported to Siberia, and most had never returned. To fill the gap left by those deportations, the occupying forces had established settlements of their own nationals, most of them Russian, and had also imposed their own language. The fact that the displaced populations had also suffered the horrors of the Soviet regime had not prevented them from being in a position of force in the occupied Baltic States, where they had had their own language, schools, administration and had flaunted their origin.

63. The present situation was that the Baltic States had finally acceded to independence and could now defend the rights of their own populations. They were sovereign States with their own legislation and their own languages, which they used in their own countries. In any country, minorities used the official language of that country and their own language only in contacts with one another. Contrary to what had been stated by the observer for the Russian Federation, teaching in Russian was not forbidden in any of the Baltic States; on the contrary, primary schools, secondary schools and institutes of higher education operating in the Russian language were subsidized by the State.

Neither were adults discriminated against because of their language. It was, however, normal for people to try to make themselves understood in the language of the country in which they lived. To have access to senior posts, all that was required of them was that they should know 1,500 words in Lithuanian. They had two years to learn that and to integrate themselves completely in the country. They were clearly not so badly off since, in the referendum on the independence of Lithuania on 10 February 1991, 75 per cent of the Russians had voted in favour of independence.

64. In Latvia and Estonia the autochthonous populations were defending themselves more strongly against the Russian annexation. Some towns such as Riga were submerged by the imported population; as a result of the mass deportations, only one third of its population were Latvians. The Russians were not being asked to return to Russia; they were merely being asked to conform to the new situation created by independence.

65. The observer for the Russian Federation had expressed the fear that the Baltic countries wished to create mono-ethnic States, with a danger to peace and stability in the region. Were the Russian garrisons of 150,000 men in the Baltic States there to guarantee that peace and stability? It was those troops that continually threatened peace and stability in the Republics and prevented the full exercise of national sovereignty and the Russian-speaking minorities from integrating with the autochthonous population. The observer for the Russian Federation had stated that Russia was ready to defend with all its forces the rights of Russians living outside its frontiers: that was a good illustration of the aims of the occupying Power, which so justified the stationing of its troops in free countries; it was difficult to accept the abandonment of the conquests of the past. If the Russian Federation really wished to render a service to its nationals in the Baltic countries and contribute to peace and stability in the region, it should respect the agreements signed with the Baltic countries and the Helsinki political declaration of 10 June 1992 on the unconditional evacuation of its troops from the Baltic States in 1992.

66. Mr. BEREZNY (Observer for the Russian Federation), said that the observer for Lithuania had reminded the Sub-Commission of a number of historical truths. It was true that the Baltic States had been incorporated into the Soviet Union, that many of their inhabitants had been deported to Siberia, and that many Russians had subsequently become permanent residents of those States. However, they had also become citizens of those States, under the legislation in force, and had subsequently contributed to their economic development. Russians, too, had suffered under Stalin's regime. What was to be gained from blaming them now? The 50 years during which the Baltic States had formed part of the Soviet Union could not simply be dismissed. He agreed that it was very important that those States should speak their own languages, and that the Russian-speaking inhabitants must adapt. Yet almost half the population were Russian-speakers. They could not simply leave their country overnight; nor could they easily find work before they had learned to speak the local language. In his opinion, a transitional period was needed.

67. He was distressed by the labelling of the Russian population as "occupying forces". His delegation's wish to defend the interests of Russians living outside the borders of the Russian Federation was certainly not

aggressive in intention. The Russian Federation was ready to examine the issue at every level of the United Nations system. His delegation also deplored the linkage of the minorities question with the withdrawal of Soviet troops: the two issues were entirely separate. In conclusion, he drew attention to the recommendation contained in the first sentence of paragraph 61 of Mr. Eide's report (E/CN.4/Sub.2/1992/37).

68. Mr. CHERNICHENKO wished to comment on the statement made by the observer for Lithuania. Since that statement apparently addressed the situation in all three Baltic States, he regretted that observers for Latvia or Estonia had not been present to hear his comments, which he hoped would be conveyed to them in due course.

69. To judge from the remarks made by the observer for Lithuania, it might be supposed that there were no violations of the human rights of Russians in the Baltic States, and that the only problem was the removal of the so-called Russian occupying forces. As the observer for the Russian Federation had said, those were two quite distinct issues. In his submission, the human rights of Russians were indeed being violated. It must be borne in mind that such rights could be infringed not only through discriminatory legislation, but also by de facto acts.

70. He strongly disapproved of the reference to Soviet and Russian "occupying" troops. That was a political problem; but in no way could the issue be regarded as one of occupation. The fact that the Baltic States had been forcibly incorporated into the Soviet Union did not imply a subsequent occupation in any legal sense, any more than Texas or New Mexico could be regarded as territories "occupied" by the United States. It should also be borne in mind that the Baltic States had been freed from fascist occupation by the Soviet army - though citizens who had served in the then Red Army to liberate the Baltic States from fascism got precious little thanks for their pains. On the contrary, armed gatherings of citizens who had fought on the side of the Nazis were now a common occurrence.

71. It had been suggested that Soviet legislation was null and void in the territory of the Baltic States because it had been enacted by an occupying power. That thesis was absurd. The Parliaments of the three Baltic Republics had been elected under the Soviet legislation in force, which had been valid at the time of those elections. How, then, could one talk of an occupying Power? It was true that Russian troops were present in the Baltic States, but that was because those States had previously formed part of the Soviet Union. That problem must be resolved in the same way as any other problem associated with the break-up of the Soviet Union, without political or nationalistic bias. He wished to raise those political issues purely because an attempt was being made artificially to link them to human rights issues.

72. Mr. BRANKOVIC (Observer for Yugoslavia) said that at the beginning of any discussion on the rights and obligations of minorities the question arose as to whether those rights were an aim in itself or whether their fulfilment aimed at a higher common goal. If they were an aim in itself, it followed that their promotion and realization inevitably led to the strengthening of nationalism among national minorities and to the emergence of separatist ambitions, as a rule favoured or supported by the State of origin. If they

were not an aim in itself, they were a means for facilitating a democratically based integration, but not assimilation, of a national minority into the overall social, economic, cultural and political life of the State in which it lived. In the latter case the strengthening of the position of a national minority led to a natural balance between its interests and those of the State; integration became the only possible logical denominator and unifying element of their common interests. If national minority rights protection had as its objective the integration of a minority and not the disintegration of the State in which it lived, it followed that the rights of national minorities were in corollation with their obligations. That was a logical conclusion based on the general principles of national and international law, the International Covenant on Civil and Political Rights, the 10 principles of the Helsinki Final Act, the Declaration on Minorities adopted in 1992 and the document of the Second Meeting of the CSCE Conference on the Human Dimension at Copenhagen.

73. The members of the Albanian national minority in Kosovo and Metohija had been granted the broadest possible individual and collective rights even before the International Covenant on Civil and Political Rights and the Helsinki Final Act had been adopted. Those rights, confirmed by the new Constitutions of Serbia and the Federal Republic of Yugoslavia, were greater than those recognized in the CSCE documents or in any other international instruments. They had included cultural and territorial autonomy, schools and a university in their mother tongue, full participation in economic, political and public life as well as in the decision-making process through their representation in local, republic and federal organs.

74. The core of the problem was the persistent attempt of Albanian national extremism to establish another Albanian State at the expense of its own State - Yugoslavia. If the basic problem in Kosovo and Metohija could be pinned down to human rights, then a simple improvement of the situation in that field would eliminate it. Unfortunately, that was not true. The only real problem in the Kosovo crisis was Albanian separatism and secessionism.

75. The Albanian separatist movement, at least 50 years old, had never genuinely been interested in either minority or human rights or even democratic processes but had always exploited them as a screen to more easily accomplish its secessionist aim. That was the only explanation for the arrogant rejection of the broad political autonomy of Kosovo and Metohija in 1981, as well as the refusal of the Albanian national minority to participate in the first post-war free democratic parliamentary elections in Serbia and Yugoslavia. That had been recently confirmed by the leaders of the Albanian separatist movement in their public statements claiming that they were not interested in either more or less autonomy for the province, but in an independent State - the Republic of Kosovo - and its later union with Albania.

76. A part of the Albanian national minority, under the influence of the leadership of the Albanian separatist movement, had massively abused individual and collective minority rights to destroy its own State through such means as the refusal to pay rent, management expenses and taxes in order to paralyse the functioning of the State and thus to facilitate the realization of the separatist aim. That represented a violation of the key principles of

international law, the Charter of the United Nations, the International Covenant on Civil and Political Rights, the Helsinki Final Act, the 1992 Declaration on Minorities and the CSCE documents, which demanded the strict loyalty of minorities towards the State in which they lived, including recognition of the constitution and laws and respect for the State's sovereign equality, territorial integrity and political independence. In fact, article 37 of the CSCE document adopted at Copenhagen expressly stated that the loyalty of members of national minorities was a condition for the enjoyment and realization of national minority rights.

77. It was also necessary to bear in mind that the Albanian national minority was not the only numerous minority in Yugoslavia. However, it was the only national minority of which an important part, besides enjoying incomparably greater rights than national minorities in other States, was trying to break up its own State. To achieve that aim it had undertaken civil disobedience, rejection of dialogue with the legally elected authorities, the manipulation of children as a form of pressure, the simulation of mass poisoning of Albanian civilians, primarily children, the simulation of miners' hunger strikes, calls to boycott work and to sabotage, the spreading of untruths and misinformation on the human rights situation, physical attacks on, and killing of, representatives of the authorities, and increased pressure on the non-Albanian population in Kosovo and Metohija in order to induce it to flee. In the past 50 years more than 400,000 Serbs and Montenegrins had been forced, under the pressure of Albanian separatists, to leave Kosovo and Metohija for other parts of Yugoslavia. That was a flagrant example of "ethnic cleansing". The Yugoslav Government was doing its best to create conditions for all those Serbs and Montenegrins who had had to leave their homes to return to them.

78. Kosovo and Metohija had always been, and would always be, an integral part of Serbia, of Yugoslavia. Kosovo and Metohija had never belonged to any Albanian State. There were no Albanian historical or cultural monuments, but only Serbian and those dating to the Ottoman Empire. All place names in Kosovo and Metohija were of Serbian origin.

79. If all the numerous minorities in Europe and the world at large were to demand the right to an independent State, dangerous new local wars and probably a much broader conflict would follow. Yugoslavia, that was Serbia, was genuinely and permanently interested in a complete normalization of the situation in Kosovo and Metohija, and in particular in ending violations of any person's rights. Yugoslavia, that was Serbia, could not be accused of an absence of political will to solve the situation in Kosovo and Metohija. The only question was how the realization of human rights could proceed unhindered in conditions of open separatist riots and threats by the separatist movement to the unity and territorial integrity of the State. To the question as to whether a State had the right and the responsibility to protect itself from separatist aggression, he would answer "yes". To the question as to whether the responsibilities and obligations of a national minority could be separated from their rights, he would answer "no".

80. The leaderships of Serbia and Yugoslavia were prepared to start a dialogue with the representatives of all minorities on whatsoever issue, with no preconditions attached. What was non-negotiable was the territorial integrity of the Federal Republic of Yugoslavia.

81. Mr. MIRCEA (Observer for Romania), after congratulating Mr. Eide on his second progress report (E/CN.4/Sub.2/1992/37), explained how the new democratic Romania was dealing with national minority problems, which were the subject of a "white paper". The situation of the Hungarian minority in Romania, which represented 7.1 per cent of the country's population, in a "fact sheet" appended to the "white paper", was presented. Those documents had recently been sent to the United Nations Centre for Human Rights with a request that they should be circulated to interested parties in the United Nations system. He hoped that their content would be reflected adequately in the final version of Mr. Eide's report.

82. The statistics collected in the census completed on 7 January 1992 showed that, although Romania was a unitary national State, 25 different minorities lived in its territory but comprised only 10 per cent of the population. Certain provisions of the new Romanian Constitution reproduced in the aforementioned documents merited careful attention. In that connection it should be borne in mind that the Romanian nation had come into being mainly through the exercise of the right to self-determination by the Romanian populations of ancestral provinces which had been incorporated in the large empires of the period and had therefore had to suffer oppression by certain privileged minorities.

83. The constitutional and other provisions for promoting and protecting the ethnic, linguistic, cultural and religious identity of minorities stressed respect for the equality of rights of all citizens. The levels attained for the exercise of minority rights in the political, economic and social fields were in accord with European and universal standards. That was the case, for example, with regard to the exercise of the right to freedom of association, the electoral laws, the rights to education, culture and access to the media, and freedom of expression, conscience and religion. Political organizations of citizens belonging to ethnic minorities which did not obtain enough votes to secure a seat in Parliament were automatically awarded one seat. All that showed the determination of the Romanian authorities to respect international treaties and commitments assumed in the field of human rights. Furthermore, the Constitution itself provided that the Romanian State undertook to meet in full and in good faith the obligations incumbent upon it under treaties, which formed part of domestic law, that the constitutional provisions concerning human rights would be interpreted in accordance with the Universal Declaration of Human Rights, the International Covenants on Human Rights and the other treaties to which Romania was a party and that, if there was a conflict between domestic law and international law, the latter should prevail.

84. The chauvinistic demonstrations within the country and the revisionist demonstrations outside it were designed to use minority problems for purposes which had nothing to do with the protection of minorities. It was to be hoped that positions similar to that of the Romanian Government would be adopted by other Governments with which the Romanian Government had recently been in contact in connection with certain demonstrations of that kind and that those positions would be reflected in Mr. Eide's final report and in the work of the Sub-Commission in general. Likewise, his Government considered that in Mr. Eide's report and in other documents of the Sub-Commission that were due to serve as reference material for the implementation of the draft declaration of the rights of persons belonging to national, ethnic and linguistic

minorities, more attention should be given to the positions adopted against concepts which had no basis in international law, which had been rejected but which were invoked from time to time in order to envenom relations among the populations of certain States and also inter-State relations. Mr. Eide had already dealt with some of them, such as the self-determination of minorities, and the role of the so-called "motherland", but there were others just as harmful such as collective rights, personal autonomy and the self-management of minorities against which the international community ought to adopt a clear position. Romania was willing to help in finalizing Mr. Eide's report and in general to identify and implement appropriate measures for the promotion of tolerance and inter-ethnic understanding and to combat, by all legal means, incitement to national hatred, manifestations of extremism, racism and anti-semitism, since the Romanian authorities were highly aware that concord among the various sectors of the population was indispensable for the survival and prosperity of any free and democratic society.

85. U TIN KYAW HLAING (Observer for Myanmar) noted that in the deliberations under agenda items 15 and 18 certain false, grotesque and preposterous allegations had been levelled against his country.

86. In Myanmar there were no problems involving indigenous populations or any discrimination against them because all 135 national races residing in the country were indigenous national races in the true sense of the term. There were no distinct early arrivals or latecomers.

87. In late June and early July 1992 a 15-member Steering Committee appointed by the State Law and Order Restoration Council had met with representatives of legally existing political parties and an elected independent representative to solicit their proposals concerning the convening of a national convention. That coordination meeting had been successful and the Steering Committee had submitted its report on 7 August 1992. A national convention was to be held within six months to lay down the basic principles for the drafting of a new constitution by elected representatives, based on the principle of a multi-party democratic system founded on the wishes and aspirations of the national races.

88. The Government of Myanmar was committed to a policy of strengthening national unity and solidarity with a view to securing a better quality of life for the national races in the border areas, in the belief that parity of development in all parts of the country could bring about mutual love and trust among the national races. The Government had established three high-level committees to accelerate the measures in the programme for the development of border areas and national races, the main thrust of which was to lay an infrastructure for economic and social development in various sectors. From May 1989 to June 1992 his Government had spent the equivalent of US$ 156 million on the programme.

89. The Burmans, the Shans, the Karens, the Rakhines, the Mons, the Chins, the Kachins and the Kayahs were the major indigenous national races that constituted the Union of Myanmar. They had been living together aeons before the Christian era. They had mixed, mingled and inter-bred through centuries of contact, producing diverse subgroups which today formed the indigenous 135 national racial groups in the territories constituting the Union of Myanmar.

90. In its recorded history Myanmar had been a strong, flourishing, independent and unified country under three famous and long-lasting dynasties. However, in the latter part of the nineteenth century Myanmar had lost its independence and had come under the colonial yoke. Many Myanmar institutions had undergone a process of erosion. Colonial rule had introduced forces which had arrested the interaction of the indigenous racial groups, thus freezing the process of national synthesis. The divide-and-rule policy of the colonialists had caused misunderstanding among the different indigenous groups. However, after eventually overcoming differences and misunderstandings, national unity had been forged again at the Panglong Conference on 12 February 1947. In less than one year after that, Myanmar had regained its independence on 4 January 1948.

91. The coordination meeting for the convening of a national convention had been attended by representatives of the national racial groups, and his Government had suspended military offensive operations against the Karen and other armed terrorists in April 1992. The Chairman of the Steering Committee had indicated that the armed terrorist insurgents would have to return to the legal fold after abandoning their armed struggle and that they would then be able to attend the national convention by obtaining a suitable number of delegates.

92. In Myanmar, major religions such as Buddhism, Islam, Christianity and Hinduism lived side by side in complete harmony. In Myanmar there was a total absence of discrimination against any person or groups of persons on grounds of race, creed, religion or sex. Mrs. Ogata, the Independent Expert on Myanmar, had stated that Myanmar might be a model society as far as the absence of religious discrimination was concerned. Moreover, the General Secretary of the All-Myanmar Moulvis Headquarters had expressed his appreciation to the Government of Myanmar for the support given and measures taken for the promotion of Islam in Myanmar. A similar statement had been made by the Chairman of the Myanmar Muslim National Affairs Committee on the occasion of the ceremony by Myanmar Hajis recounting their experiences after the pilgrimage to Mecca.

93. Finally he wished to lodge a strong protest against the presence of certain individuals in the conference room, one or two of whom had even taken the floor. Those persons were nothing but unsavoury elements who had joined forces with armed terrorist groups committing acts of terrorism and atrocities against innocent civilian populations in the remote border areas of Myanmar.

94. Mrs. DAES said that Mr. Eide's second progress report (E/CN.4/Sub.2/1992/37) constituted a valuable contribution to research into new modern ways and means of protecting minorities.

95. In her view, the scope of the study should cover national, religious and linguistic minorities, and the ways and means to be proposed in the final report should be of a preventive nature, designed to avoid conflicts.

96. She also thought that the final report should also include a working definition of a "minority", regardless of the difficulties involved. Some useful elements for such a working definition could be taken from the resolution which the Sub-Commission had adopted at its third session in 1950.

Other criteria could be based on the studies by Mr. Capotorti and Mr. Deschênes, as well as on the work done by the Conference on Security and Cooperation in Europe and by the Council of Europe.

97. Further, the Sub-Commission should devote further attention to the issue of internal self-determination for minorities and indigenous peoples. The concept of internal self-determination recognized a number of minority rights, while ruling out separatism. It was time for the Sub-Commission to study the whole concept of self-determination and its implications without fear or prejudice, for States had the means to protect their sovereignty and territorial integrity. The concept of autonomy should also be further studied, and the right to autonomy should be recognized, and restored in particular cases where minorities had been deprived of that right as a result of wars or for other reasons.

98. Much had been said about indigenous peoples and minorities, and the relationship between them; and the Special Rapporteur had been careful to draw a distinction between the two. That distinction must always be borne in mind, since indigenous people did not necessarily constitute a minority.

99. One other problem meriting further study was the misuse of the minority system. What was the most appropriate response to misuse of the system by a national or religious minority which demanded more rights - territorial rights, for instance - than it was entitled to under international or human rights law, or which abused the rights it already enjoyed? Finally, ethno-nationalism, as one of the main causes of contemporary conflicts, was a further phenomenon with which the Sub-Commission must concern itself.

100. The Secretary-General should accord the Special Rapporteur all the assistance necessary for the completion of his work, including the preparatory work for convening the technical meeting of experts on minorities at the end of 1992, which had been approved by the Commission on Human Rights in decision 1992/112 at its previous session.

101. Mr. DESPOUY said that a mere global review of the situation of minorities was not enough. In keeping with his mandate, the Special Rapporteur should propose the setting up of a mechanism for the peaceful settlement of minority issues. His study could then serve as a reference text on the basis of which the Sub-Commission could carry out its mandate. Furthermore, since the right to self-determination and its complement, territorial integrity, were highly controversial political issues, the Special Rapporteur should aim to create a methodology for the peaceful settlement of conflicts, rather than focusing on the areas of controversy and adopting a specific stance thereon.

102. Mr. EIDE, Special Rapporteur, making his final comments, welcomed the broad endorsement of the approach he had adopted in his second progress report (E/CN.4/Sub.2/1992/37), and singled out the interventions by Human Rights Advocates, Pax Christi International and Mr. Al-Khasawneh, from whose criticisms he had learned a great deal.

103. It was important to formulate strong observations on the question of the borderline between the minorities issue and the self-determination issue at the current session, since areas of ambiguity regarding rights of

self-determination had led, not only to violence, but also to external intervention in support of groups fighting for secession. That situation was extremely dangerous: hence his insistence on the limits to the right to self-determination.

104. He agreed with Mrs. Daes on the need for an alternative concept, though he was not sure that "internal self-determination" was the most appropriate term. What was clear was that a higher degree of local self-government was needed in many parts of the world.

105. The main thrust of his paper was that there were meaningful and peaceful alternatives to secession. It had been pointed out that self-determination did not necessarily imply secession. The problem was that as long as secession was kept as one option on the agenda, it constituted a threat. Removing the option of secession would remove that threat, paving the way for more practical solutions to problems.

106. That every people had the right of self-determination was not at issue: the right was set forth in article 1 of the International Covenant on Civil and Political Rights. Nevertheless, any group claiming that right must meet certain criteria. First, it must prove that it was indeed a people within the meaning of that instrument. Secondly - a matter often overlooked - it must prove that the State in which it lived did not comport itself in accordance with the principle of equality of rights and self-determination of peoples by being possessed of a Government representing the whole people of the territory, without discrimination as to race, creed or colour. Thirdly, it must also prove that it was indeed the victim of discrimination; and further, that there was no way of halting that discrimination - a problem facing many of the new countries emerging out of the former federations. Inasmuch as any Government must represent the whole people, the Sub-Commission's demand was thus also addressed to Governments.

107. He would return the following year with a report that addressed all the points made by speakers. In particular, he would address the issues raised by Mr. Despouy; for the crucial question was indeed, not to define the rights of minorities, but to find mechanisms whereby conflicts could be resolved.

ORGANIZATION OF WORK (continued)

108. Mrs. KSENTINI said that she had received a copy of the reply from the Permanent Mission of Switzerland addressed to the Chief of the Legal Service concerning the incident that had occurred on 13 August 1992 at the Ferney-Voltaire border crossing.

109. She found that reply entirely unsatisfactory. It was to be noted that the reply from the Permanent Mission of Switzerland differed totally from the account of the affair given by Mr. Cottet, Director of the Sixth Customs District, who had received her on 21 August and tendered his apoligies to her. Despite the regrets expressed in the letter from the Swiss authorities, a number of points remained unclear. In the interests of justice, the authorities should not be allowed to proffer apologies in private while leaving matters unresolved in an official communication, thereby leaving the way open for a repetition of such humiliating incidents.

110. The CHAIRMAN said that he had followed up the request which had been addressed directly to the Under-Secretary-General for Human Rights regarding the official United Nations travel certificate to be issued to members of the Sub-Commission. He had been informed that morning that it would not be possible to have the document before the end of the current session. He had asked for an explanation of the delay and had conveyed his own concern and that of the members of the Sub-Commission to the Under-Secretary-General personally who had instructed his staff to take all necessary steps to ensure that, before the end of the current session, members would receive the document in question. He had now been assured, on behalf of the Under-Secretary-General, that all the members and those alternates who had requested it would have the document by the beginning of the last meeting of the Sub-Commission, on Friday, 28 August.

111. He had taken the action indicated in response to inquiries from a number of colleagues.